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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,369	10/15/2003	David Emerson	031223	3372

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EXAMINER

CABRERA, ZOILA E

ART UNIT PAPER NUMBER

2125

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/684,369

Applicant(s)

EMERSON ET AL.

Examiner

Zoila E. Cabrera

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/15/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4 are rejected under 35 U.S.C. 102(e) as being anticipated by **Lynch et al. (US 2004/0167796 A1)**.

Regarding claims 1-2, and 4, **Lynch** discloses:

1. A production process rating method for rating a production process on the basis of a predetermined rating standard ([0051]; [0178]), the method comprising preparing in advance plural data including performance rating items associated with rating values as rating indexes for a production process and storing the data into a memory ([0178]), gathering achievement data by a gathering unit when the production process is executed ([0189]), judging by an arithmetic unit whether or not the executed production process satisfies conditions defined by the performance rating items on the basis of the gathered achievement data ([0181]; [0187]; Fig. 20, steps 2204-2208), adding or subtracting a point or points to or from the rating values ([0182]; [0179]; Fig. 11, Total Points After Project) **or** performing another arithmetic operation for rating in accordance with the result of the judgment ([0182]), and comprehensively rating the production

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process on the basis of the plural performance rating items ([0182]; [0183]-[0184]).

2. The production process rating method as claimed in claim 1, wherein a reference score is set as a default value in starting to rate the production process, and the arithmetic unit adds or subtracts a rating value from the reference score ([0178]) or performs another arithmetic operation for rating in accordance with the result of judgment made for each performance rating item, thereby deciding an ultimate total rating score ([0189]).

4. The production process rating method as claimed in claim 1 or 2, wherein the production process is a continuous process or a discontinuous process ([0179]).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5-8 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lynch et al. (US 2004/0167796 A1)** in view of Applicant's admitted prior art (Specification, Pages 1-2; Figs. 1-2)

Lynch discloses the limitations of claim 1 above. The same citations applied to claim 1 above apply as well for claims 9-10. However, **Lynch** fails to disclose some

limitations of claims 9-10 and the limitations of claims 3-8 and 11. But **Applicant** admits that these limitations are known under "Description of the Related Art" as follows:

Regarding claims 3, 5-8,

3. The production process rating method as claimed in claim 1 or 2, wherein the production process is a batch process (Fig. 1);

5. The production process rating method as claimed in claim 3, wherein a total rating score is decided for each batch process or for each unit recipe in the batch process (Fig. 1, the total rating score corresponds to each number on the y-axis).

6. The production process rating method as claimed in claim 3, wherein when a batch production cycle time is between an upper limit value and a lower limit value, the arithmetic unit adds a rating value or performing another arithmetic operation for rating to the reference score (Fig. 2, cycle time between 00:00:00 – 00:05:00).

7. The production process rating method as claimed in claim 3, wherein when a batch production cycle time is more than an upper limit value or less than a lower limit value, the arithmetic unit subtracts a rating value or performing another arithmetic operation for rating from the reference score (Figs. 1-2).

8. The production process rating method as claimed in claim 3, wherein rating is carried out when the number of times a batch based on the same recipe revision is executed is a predetermined number or more (Fig. 2).

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Regarding claims 9-10,

a display unit for displaying on a screen a graph based on the result of the rating by the arithmetic unit, with one coordinate axis representing total rating score and the other coordinate axis representing batch ID or unit recipe ID .

a display unit for displaying on a screen a graph based on the result of the rating by the arithmetic unit, with one coordinate axis representing the number of batches or the number of unit recipes and the other coordinate axis representing sections of a total rating score (Figs. 1-2; Pages 2-3 of the specification).

As for claims 11-12,

11. The production process rating apparatus as claimed in claim 9 or 10, wherein the display unit displays the result of the rating in a bar graph, a line graph, a circle graph, a radar chart, or a graph plotting a total rating score (Figs 1-2).

12. The production process rating apparatus as claimed in claim 9, wherein the display unit displays the result of the rating for each batch ID or unit recipe ID in a bar graph on a screen, the apparatus further comprising: a graph preparation unit for preparing a rating achievement data graph for each batch ID or unit recipe ID from rating achievement data with respect to rating parameters; a selector unit for selecting one of bar graphs displayed on the screen; and a call-up unit for calling up a rating achievement data graph including batch ID or unit recipe ID based on the selected bar graph onto the screen (Specification, Pages 2-3; Figs. 1-2).

Therefore, it would have been obvious to a person of the ordinary skill in the art at the time the invention was made to combine the teachings of **Lynch** with already known bar graphs displays as disclosed under "Description of the related art" because it would provide an improved graphical interface for displaying the performance achievements of a process that can be easily grasped in a bar graph.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning communication or earlier communication from the examiner should be directed to Zoila Cabrera, whose telephone number is (571) 272-3738. The examiner can normally be reached on M-F from 8:00 a.m. to 5:30 p.m. EST (every other Friday).

If attempts to reach the examiner by phone fail, the examiner's supervisor, Leo Picard, can be reached on (571) 272-3749. Additionally, the fax phones for Art Unit 2125 are (571) 273-8300. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist at (703) 305-9600.



Zoila Cabrera
Patent Examiner
2/2/06